



CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2020-0019]

Notice of Availability of Regulatory Flexibility Act Section 610 Review of the Safety Standards for the Testing and Labeling Regulations Pertaining to Product Certification of Children's Products, Including Reliance on Component Part Testing

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of availability.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) is announcing the availability of a completed rule review under section 610 of the Regulatory Flexibility Act (RFA) for the Testing and Labeling Regulations Pertaining to Product Certification of Children's Products, Including Reliance on Component Part Testing. This regulatory review concludes that the testing and component part testing regulations should be maintained without change.

ADDRESSES: The completed review is available on the CPSC website at:

https://www.cpsc.gov/s3fs-public/Regulatory-Flexibility-Act-Review-of-Testing-and-Labeling-Regulations.pdf?rIp6oVfT143VJ29wBQgMbQ1c_R2jq39w. The completed

review will also be made available through the Federal eRulemaking Portal at:

<https://www.regulations.gov>, under Docket No. CPSC-2020-0019, Supporting and Related Materials. Copies may also be obtained from the Consumer Product Safety Commission, Division of the Secretariat, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone: 301-504-7479; email cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: Susan Proper, Directorate for Economic Analysis, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7628; email: sproper@cpsc.gov.

SUPPLEMENTARY INFORMATION: In November 2011, the Commission issued two regulations related to testing: 16 CFR part 1107, “Testing and Labeling Pertaining to Product Certification” (testing regulation or part 1107) (76 FR 69482, November 8, 2011), and 16 CFR part 1109, “Conditions and Requirements for Relying on Component Part Testing or Certification, or Another Party’s Finished Product Certification, to Meet Testing and Certification Requirements” (component part regulation or part 1109) (76 FR 69546, November 8, 2011). When parts 1107 and 1109 were promulgated in 2011, the final regulatory flexibility analysis found that the third party testing requirements in part 1107 would have a significant economic impact on a substantial number of small entities. In contrast, the final regulatory flexibility analysis for the component part regulation in part 1109 found that the regulation would not likely have a significant impact on a substantial number of small entities because component part testing is not mandatory. However, OMB determined that both 1107 and 1109 were considered “major rules” under the Congressional Review Act (CRA).¹

On August 24, 2020, the Commission published notice in the *Federal Register* (85 FR 52078) to announce that the CPSC would review the testing and component part testing regulations in accordance with the regulatory review provisions of section 610 of the RFA (5 U.S.C. 610). The CPSC sought public comment on the rule review. This document announces the availability of the completed regulatory review under section 610 of the testing and component part testing regulations.

The purpose of a rule review under section 610 of the RFA is to determine whether, consistent with the CPSC’s statutory obligations, these standards should be

¹ The CRA defines a “major rule” as one that has resulted in or is likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. 5 U.S.C. 804(2).

maintained without change, rescinded, or modified to minimize any significant impact of the rule on a substantial number of small entities. Section 610 requires agencies to consider five factors in reviewing rules to minimize any significant economic impact of the rule on a substantial number of small entities including:

- (1) The continued need for the rule;
- (2) The nature of complaints or comments received concerning the rule from the public;
- (3) The complexity of the rule;
- (4) The extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and
- (5) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. 5 U.S.C. 610(b).

The CPSC received five written comments. The comments came from (1) a small business that sells handmade items; (2) a small business that sells wooden toys and gifts; (3) a small importer of European toys; (4) the American Apparel & Footwear Association (AAFA); and (5) the Juvenile Products Manufacturers Association (JPMA). Staff's briefing package reviews all of the comments and provides staff's analysis applying the factors listed in section 610 of the RFA to the testing and component part testing regulations. As explained in the staff's briefing package, CPSC staff concludes that the testing and component part testing regulations should be retained without any changes.

The staff review is available on the CPSC's website at:

https://www.cpsc.gov/s3fs-public/Regulatory-Flexibility-Act-Review-of-Testing-and-Labeling-Regulations.pdf?rIp6oVfT143VJ29wBQgMbQ1c_R2jq39w,

www.regulations.gov, and from the Commission's Division of the Secretariat at the location listed in the ADDRESSES section of this notice.

Alberta E. Mills,

Secretary

U.S. Consumer Product Safety Commission.

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